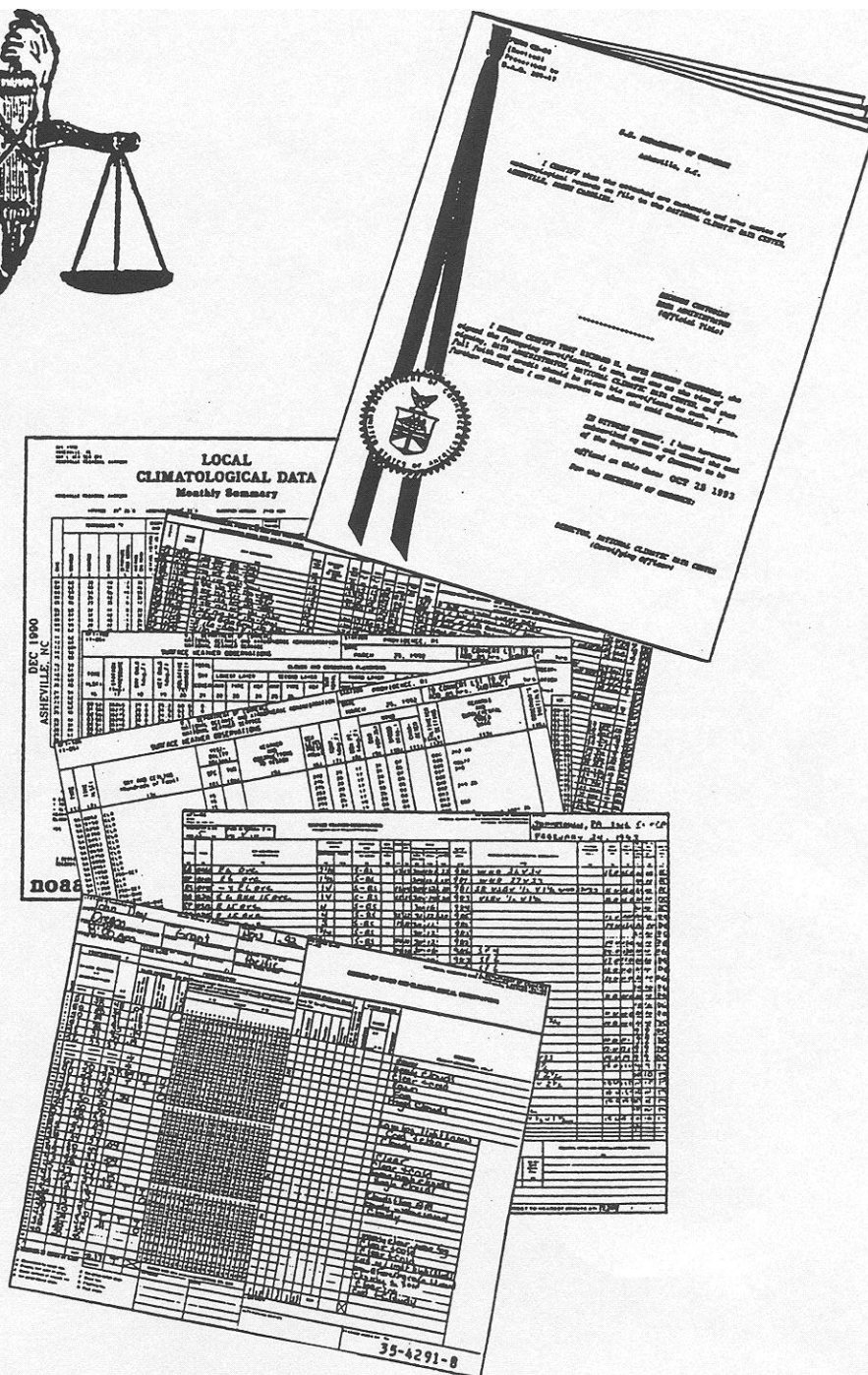
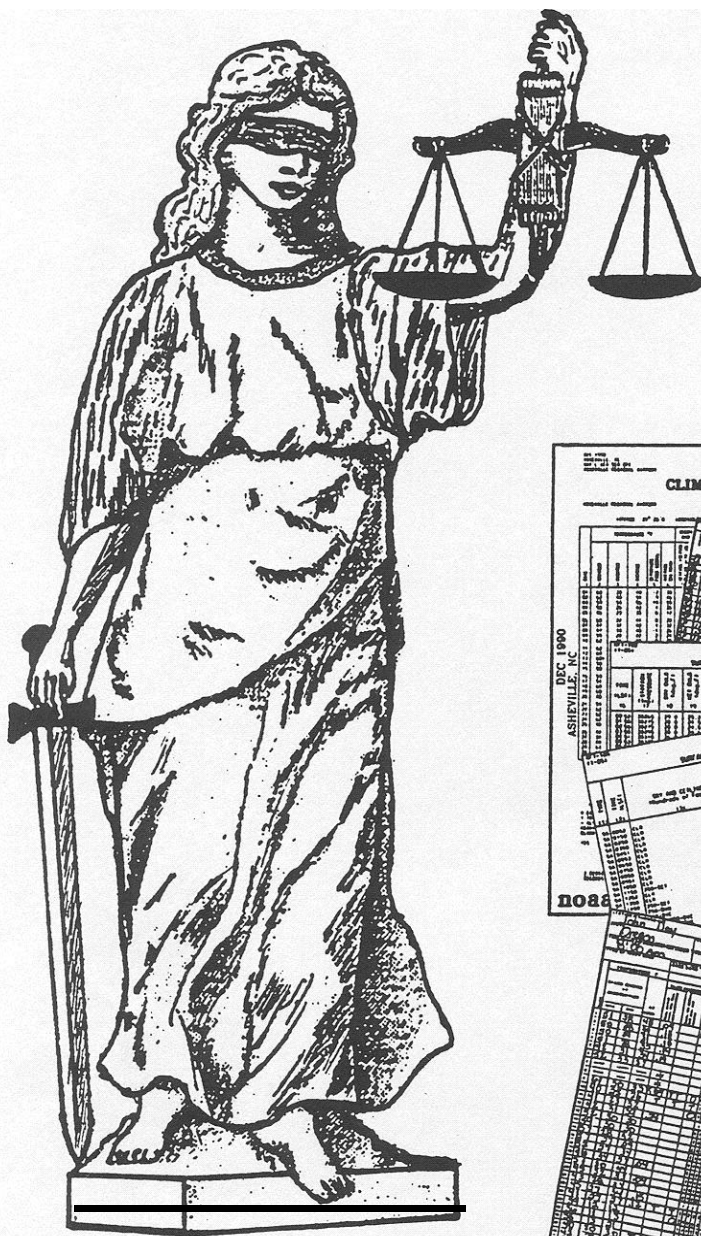


WEATHER RECORDS IN PRIVATE LITIGATION



Additional Information may be obtained by contacting:

**NATIONAL CLIMATIC DATA CENTER
151 PATTON AVENUE ROOM 120
ASHEVILLE, NC 28801-5001**

**TELEPHONE : (828) 271-4800
TD for DEAF : (828) 271-4010
FACSIMILE : (828) 271-4876
E-MAIL : orders@ncdc.noaa.gov
WEBSITE : <http://www.ncdc.noaa.gov>**

“A national resource for climatic information”

CERTIFICATION INFORMATION

The National Climatic Data Center (NCDC) is designated by public law 754, passed by the 81st congress as the Federal Records Act of 1950, as the official United States archive for climatic data records. As an archive facility, the only fact that the NCDC can attest to is that exact duplicates of climatic records on file at this center have been provided to those that request such data. The standard Department of Commerce (DOC) or General certification of authenticity regularly provided to clients appropriately accomplishes this (see form examples). In accordance with 28 U.S.C. 1733, properly authenticated copies or transcripts of records or publications of NOAA shall be admitted in evidence as equal to the originals thereof. Although this statute only applies to Federal Courts, many, if not all, States have similar provisions.

The DOC gold seal with blue ribbon certification of record authenticity has for many years been provided to thousands of clients who successfully entered documents as court exhibits in legal proceedings. This DOC certification has been developed by the National Oceanic and Atmospheric Administration (NOAA) Office of General Counsel, in conjunction with the NCDC and with the approval of each states' attorney general, to be universally acceptable to all U. S. federal and state courts. Only in extremely rare instances has this DOC certification been unacceptable to some courts, and then, there were only minor points of contention. In order to maintain an expeditious flow of data to requestors, certain individuals at the NCDC have been designated by DOC/NOAA to sign these certifications in lieu of the original signatories. These "for" signatures have also been accepted without qualification by federal and state courts.

The DOC certification, or any affidavit, provided by the NCDC in no way authenticates or guarantees the data values contained in the records provided. The NCDC cannot attest to data authenticity since it has no direct knowledge of observer expertise, instrument reliability, or the conditions under which the data were recorded. The DOC certification merely facilitates the admittance of the documents it is attached to as evidence in judicial proceedings.

NOAA regulations prohibit employees of the NCDC from providing services to the public that would be in competition with private commercial enterprises. Prohibited services include consultation, interpretation, evaluation or any other services that are commonly provided by certified consulting meteorologists or other enterprises in the private sector. As data providers, NCDC employees can only advise customers of the availability and contents of data archived at the NCDC. Because of this prohibition, "Expert Witness" testimony cannot be provided by NCDC personnel. The NCDC cannot certify data obtained from any source other than directly from its archives, even if that data had previously been provided from those archives and returned to the NCDC for certification.

The DOC certification (Form CD-64) is a two part certificate (certification and authentication) under the Seal of the United States Department of Commerce with blue ribbon. This is the highest form of certification offered by the NCDC and can be attached to a total of up to 40 pages of data. This type of certification is signed by both the NCDC Records Custodian and the NCDC Director as the *Certifying Officer, or their designated representatives*.

The General certification consists of an attached certification statement signed by a Certifying Officer and is acceptable in most courts. The statement is affixed with a staple to the assembled documents, up to 70 pages.

DEPARTMENT OF COMMERCE CERTIFICATION (Form CD-64)

FORM CD-64
(Revised)
Prescribed by
D.A.O 201-17

B

L

U

E

** **

R

** I **

** B **

** B **

** O **

** N **

** **

** **

** **

** **

** **

** **

** **

** **



** **
** **

U. S. DEPARTMENT OF COMMERCE
Asheville, N.C.

I CERTIFY that the attached are authentic and true copies of meteorological records on file in the NATIONAL CLIMATIC DATA CENTER, ASHEVILLE, NORTH CAROLINA.

- *SIGNATURE* -

XXXSAMPLEXXX

RECORDS CUSTODIAN
DATA ADMINISTRATOR
(Official Title)

I HEREBY CERTIFY that XXXSAMPLEXXXX RECORDS CUSTODIAN, who signed the foregoing certificate, is now, and was at the time of signing, DATA ADMINISTRATOR, NATIONAL CLIMATIC DATA CENTER, and that full faith and credit should be given his certificate as such. I further state that I am the person to whom the said custodian reports.

IN WITNESS WHEREOF, I have hereunto
subscribed my name and caused the seal of the
Department of Commerce to be affixed
on this date: J U L 4, 1999

For the SECRETARY OF COMMERCE:

- *SIGNATURE* -

XXXSAMPLEXXX

DIRECTOR
NATIONAL CLIMATIC DATA CENTER
(Certifying Officer)

@@

@@

GENERAL CERTIFICATION



U. S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL ENVIRONMENTAL SATELLITE, DATA, AND
INFORMATION SERVICE
NATIONAL CLIMATIC DATA CENTER
FEDERAL BUILDING
ASHEVILLE, N.C. 28801

TO WHOM IT MAY CONCERN:

I hereby certify that the annexed are true copies of the specified records and/or publications for the times and places indicated thereon on file in the National Climatic Data Center.

- *SIGNATURE* -

Certifying Officer

Other than the standard certifications provided by the NCDC, any certification requested must be edited to correspond to NCDC guidelines and restrictions, returned to the requestor for review, forwarded to the NOAA Office of General Counsel in Silver Spring, MD for approval, and returned to the NCDC for signature. The delay in obtaining these other than usual documents can range upwards of several weeks. One (1) certification can be attached to up to 40 pages of data. Costs to service requests for other than standard certifications is considerably higher than for the standard documents.

FREQUENTLY ASKED QUESTIONS

While this certification information is designed to respond to the most frequently asked questions concerning weather records, it is recognized that it is not all inclusive. Special circumstances may occur that require specific answers to questions, in which case the NCDC should be contacted for further information or clarification.

Q: Where are Official Weather Observations made?

A: Official weather observations are taken, either manually or automatically, at several thousand sites throughout the United States. The locations of these sites in any state may be obtained from any National Weather Service (NWS) Office in that state or from the National Climatic Data Center's web page at <http://www.ncdc.noaa.gov/ol/climate/stationlocator.html>.

Q: What types of data are recorded?

A: Most stations record a daily precipitation measurement. At many stations, the daily highest and lowest temperatures are also recorded. Some stations have automatic precipitation gauges which provide a continuous record of rainfall. At approximately 300 NWS Offices much more detailed data are recorded at hourly intervals, such as wind, temperature, humidity, type of weather, atmospheric pressure, visibility, and clouds. Similar detailed data are recorded at some airports by the Federal Aviation Administration, airlines, the military, and contract weather observers.

Q: What weather records other than those described above are available for special needs?

A: The NCDC files forecasts and warnings (beginning July 1983), upper air data, accounts of major storms, radar images, satellite pictures, weather maps (both surface and constant pressure), observations from ships, buoys, and aircraft, limited solar radiation data, a variety of summaries of weather conditions, and climatological publications from foreign countries. Much of the information for the U. S. is published in the *Climatological Data* and *Hourly Precipitation Data* for individual States/Areas and in *Local Climatological Data* for individual stations. A brief description of the most requested NCDC data sets is provided as Appendix A at the end of this section.

Q: Where are these recorded data available?

A: The original, filmed, and digital records of data from all types of stations are on tile, and may be ordered from the NCDC. Information regarding specific data, services, and costs can be obtained by contacting the NCDC by one of the methods given inside the front cover of this brochure. Meteorologists or Meteorological Technicians are currently available by telephone for assistance from 8:00 a.m. to 5:00 p.m. Eastern time Monday-Friday. The Department of Commerce, including the NCDC, is required by Public Law 100.685 (Title IV, Section 409) to assess fees, based on fair market value, to recover all monies expended by the U. S. Government to provide the data to requestors.

Q: How can certified copies of records, publications, or tabulations be obtained?

A: Copies of materials will be appropriately certified **upon specific request**. If certified copies or additional certification of publications that carry a printed certification are needed, the type of certification desired should be specified in the original request. Uncertified copies **cannot** be returned at a later date for certification. A new order involving costs for the requested certified data is required.

Q: Where may certified copies of weather forecasts and warnings be obtained?

A: Though the NCDC is responsible for certifying observed weather records, weather forecasts and warnings are a special case. Requests for certified copies of this type of data must be made in writing to the National Weather Service/NOAA, Attn: W/OM13 - Room 14415, 1325 East-West Highway, Silver Spring, MD 20910.

Q: Many times information sought involves weather conditions at a slightly different time or place than those shown on the record, or information about the effect of weather conditions upon such things as visibility, road conditions, etc. Are NOAA personnel permitted to render opinions as to applicability of the data at other locations or as to effects of the weather?

A: As previously mentioned, regulations generally preclude NOAA personnel from rendering opinions in private litigation. It is therefore suggested that attorneys obtain the services of a private consulting meteorologist (PCM) who can give an expert opinion. PCM addresses may be obtained from the:

American Meteorological Society, 4.5 Beacon Street, Boston, MA 02108 (617-227-2425)

Q: What recourse is there if an attorney involved in legal proceedings feels that the information in printed publication form that he received is not satisfactory either because of the manner in which it is presented or because some desired available data are not contained in the publication.

A: The first alternative is to request copies of the original records. If these will not satisfy the need, the attorney may request that specific information for a specific observation site be extracted and written in **plain** language as a *narrative* which could then be certified. Since these services require the attention of a professional meteorologist, the charges will be substantially higher than charges for copies of the records. In some cases an attorney may determine that it may be advisable to retain a private consulting meteorologist who may also serve as an expert witness to explain pertinent details.

Q: Can the NCDC provide times of official sunrise, sunset, moonrise, moonset, and moon phases?

A: No, although the sunrise/sunset times do appear in some surface observation data and monthly summaries available from the NCDC. The Department of the Navy, U. S. Naval Observatory, Massachusetts Ave & 24th Street, Washington, DC 20390 provides a web site from which astronomical data can be obtained (<http://tycho.usno.navy.mil>). The U. S. Naval Observatory can provide certain tables for general public information. These tables are not provided with seal or certification regarding authority, custody or authenticity. They do not furnish astronomical data for purposes of litigation. There are many private sector sources that can be contacted for data concerning the rising and setting of the sun and moon, twilight, moon phases, etc.

Q: How does the Freedom Of Information Act affect obtaining climatic data?

A: The Freedom Of Information Act (FOIA) guarantees the access to data, not that the data will be provided at no cost. Appropriate authority has determined that climatic data is in the public domain and therefore not subject to FOIA regulations. While there is no charge for the data itself, charges are assessed to provide the data requested. Since climatic data is in the public domain, there are few restrictions on providing the data to requestors. Likewise, climatic data can be provided whether a subpoena is issued or not.

APPENDIX A

THESE ARE THE MOST UTILIZED OF THE NCDC'S PRODUCTS. ONE, OR MORE, OF THESE PRODUCTS MAY FULFILL YOUR REQUIREMENTS FOR CLIMATIC DATA.

Samples of the data/publication may be viewed at the NCDC web site <http://www.ncdc.noaa.gov> under "products".

Surface Weather Observations

These ground level observations are taken at specific, mostly airport, sites primarily for, but not limited to, use in the aviation field. Meteorological conditions are observed at least hourly and present sky condition, visibility, weather and obstructions to vision, pressure, temperature, dew point, wind direction/speed, and pertinent remarks. Other elements, such as relative humidity, are available for most major airport sites. The contents and format of these observations may vary depending on the site type and method of observation (manual, automated, etc.). Observations at some sites may be for less than a twenty-four hour period. Daily form(s) available for several hundred sites.

Climatological (COOP) Observations

These are daily observations obtained from a volunteer network of trained observers. In addition to daily precipitation, most sites record the temperature at observation time plus the maximum and minimum temperature for the full twenty-four hour period preceding the time of observation. Some cooperative observations also record daily river stages, evaporation, soil temperatures and wind direction/speed. Monthly form available for about eight thousand sites.

Unedited Local Climatological Data

Summarizes surface weather observation daily data for an entire month. The data is an unedited version of the first page of the Local Climatological Data (see below). Monthly form available for several hundred sites.

Local Climatological Data

Monthly summary of temperature, relative humidity, precipitation, cloudiness, wind direction/speed, and degree days; also contains 3-hourly weather observations and an hourly summary of precipitation for most sites. Annual publications contain a summary of the past calendar year as well as historical averages and extremes. Monthly/annual publication for several hundred sites.

Climatological Data

Monthly edition contains daily maximum and minimum temperatures and precipitation. Some sites provide daily snowfall, snow depth, evaporation and soil temperature data. Degree day data is contained in each monthly publication with the seasonal (July-June) heating degree day and snow data contained in the July edition. Annual edition contains monthly and annual averages of temperature, precipitation, temperature extremes, freeze data, soil temperatures, evaporation, and cooling degree days. Monthly/annual publication for each state or grouping of states.

Hourly Precipitation Data

Contains hourly precipitation amounts from recording rain gages presented in inches and tenths (xxx) or inches and hundredths (xx.xx) at local standard time. Maximum precipitation is presented for nine (9) time periods from 15 minutes to 24 hours for selected stations. Monthly publication for each state or grouping of states.

Storm Data

A chronological listing, by states, of occurrences of storms and unusual weather phenomena. Information on storm paths, deaths, injuries, and property damage are presented. An "Outstanding storms of the month" section highlights severe weather events with photographs, illustrations, and narratives. An annual tornado, lightning, flash floods, and tropical cyclone summary usually appears in the December edition, but may appear in a later issue. Monthly publication includes all states.

Monthly Climatic Data for the World

Contains monthly means of temperature, pressure, precipitation, vapor pressure, and sunshine for about 2,000 surface data collection sites worldwide. Monthly mean upper air temperatures, dew point depressions, and wind velocities are presented for about 500 worldwide observing sites. Monthly publication.